

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

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ELAINE L. CHAO, Secretary of Labor,	:	
United States Department of Labor,	:	
	:	Civil Action
Petitioner,	:	
	:	File No. 08-2535 (PGS)
v.	:	
	:	
160 BROADWAY CORP. d/b/a	:	
BROADWAY CONCRETE;	:	
and ANSELMO GENOVESE	:	
	:	
Respondents.	:	

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**CONSENT ORDER**

Petitioner ELAINE L. CHAO, Secretary of Labor, United States Department of Labor ("the Secretary"), commenced this action to enforce administrative subpoenas *duces tecum* and *ad testificandum* issued to 160 BROADWAY CORP. d/b/a BROADWAY CONCRETE ("160 Broadway"), and an administrative subpoena *ad testificandum* issued to respondent ANSELMO GENOVESE, which subpoenas were issued pursuant to the Secretary's investigation of fall hazards and other safety conditions at respondent 160 Broadway's workplace located at 77 Hudson Street, Jersey City, New Jersey, and which subpoenas are attached to this Order. The parties have reviewed this Consent Order and agree to its entry as evidenced by the signatures below of counsel for the parties. Respondents acknowledge their responsibilities pursuant to this Order, and acknowledge that they will be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Order.

**IT IS THEREFORE ORDERED** that the respondents will comply with the above referenced subpoenas as follows:

1. Respondent 160 Broadway shall produce the following records to the Secretary at

U.S. Department of Labor, Regional Solicitor, 201 Varick Street, Room 983, New York, NY 10014, attention Suzanne Demitrio, no later than June 9, 2008 at 5:00 p.m.:

- a. Corporate charter and bylaws for 160 Broadway;
- b. All minutes of 160 Broadway's shareholders' and directors' meetings conducted within the past three years;
- c. 160 Broadway's tax returns for tax years 2005, 2006, and 2007;
- d. All records, including Forms W-2, 1099, and 1099-DIV, of payments by 160 Broadway to directors, officers, shareholders, and managerial employees of 160 Broadway, including Anselmo Genovese, from January 1, 2005 through the present;
- e. Any and all general certified audits or balance sheets prepared for 160 Broadway within the past three years;
- f. Any and all audits or balance sheets prepared for 160 Broadway for the construction project at 77 Hudson Street, Jersey City, New Jersey;
- g. Any and all contracts between 160 Broadway and Broadway Taping and/or Broadway PEO, Inc.;
- h. A summary or list of construction jobs pending or completed by 160 Broadway within the past three years, showing the approximate dates of performance for each job;
- i. A list of all employees who performed work for 160 Broadway on the construction project at 77 Hudson Street, Jersey City, New Jersey.

2. On June 11, 2008 at 10:00 a.m., Jay Schector shall appear at U.S. Department of Labor, Regional Solicitor, 201 Varick Street, Room 908, New York, NY 10014, to testify on

behalf of respondent 160 Broadway, to the extent of his actual knowledge, regarding the topics listed in the subpoena *ad testificandum* issued by the Secretary to 160 Broadway.


3. On June 13, 2008 at 10:00 a.m., respondent Anselmo Genovese shall appear at U.S. Department of Labor, Regional Solicitor, 201 Varick Street, Room 908, New York, NY 10014, to testify, to the extent of his actual knowledge, regarding the topics listed in the subpoena *ad testificandum* issued by the Secretary to Genovese.

4. For any and all documents, records, files, or other information produced by 160 Broadway to OSHA in connection with the above referenced subpoenas. 160 Broadway shall be permitted, prior to or after delivery, to mark as "CONFIDENTIAL," any and all documents, records, files, or other information concerning 160 Broadway's confidential business information or trade secrets, including without limitation information concerning 160 Broadway's business practices and finances ("Confidential Information"). OSHA shall preserve the confidentiality of any Confidential Information produced by 160 Broadway in accordance with 29 U.S.C. § 664, 18 U.S.C. § 1905, and as otherwise may be required by law. In the event OSHA intends to disclose any Confidential Information produced by 160 Broadway in a public proceeding arising from the Secretary's aforementioned investigation of 160 Broadway, or pursuant to a freedom of information request, OSHA shall so inform counsel for 160 Broadway with sufficient notice to allow 160 Broadway to seek an appropriate protective order. Nothing herein shall prevent 160 Broadway from seeking an additional protective order pursuant to 29 U.S.C. § 664 or otherwise as available at law. Nothing herein shall affect or constitute a waiver of any privilege any Party may have with respect to any and all documents, records, files, or other information however maintained; and

IT IS FURTHER ORDERED that the Secretary's time to issue citations, under 29 U.S.C. § 658(c), resulting from her aforementioned investigation of respondent 160 Broadway, be equitably tolled from the time these subpoenas were served until the time that the respondents comply with the subpoenas pursuant to this Order; and

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this matter in the event that the respondents fail to comply with this Order.

DATED: 6/4/08  
Newark, New Jersey

  
PETER G. SHERIDAN  
UNITED STATES DISTRICT JUDGE

Entry of this Order is hereby consented to:

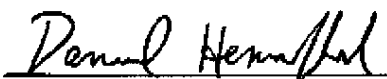
Dated: 6/2/08  
Saint Louis, Missouri

Dated: 6/2/08  
New York, New York

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